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IN THE

Supreme Court of the United States

NO. 10, ORIGINAL.

October Term, 1953

STATE OF ARIZONA

Complainant

v.

STATE OF CALIFORNIA, PALO VERDE IRRIGATION DISTRICT, IMPERIAL IRRIGATION DISTRICT, COACHELLA VALLEY COUNTY WATER DISTRICT, METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, CITY OF LOS ANGELES, CALIFORNIA, CITY OF SAN DIEGO, CALIFORNIA AND COUNTY OF SAN DIEGO, CALIFORNIA.

Defendants

UNITED STATES OF AMERICA, INTERVENER.

JOHN H. MOEUR
Chief Counsel,
Arizona Interstate Stream Commission
BURR SUTTER
Assistant Counsel,
Arizona Interstate Stream Commission
PERRY M. LING
Special Counsel,
Arizona Interstate Stream Commission
ROSS F. JONES
Attorney General of Arizona
HOWARD F. THOMPSON
Special Assistant to the Attorney General of Arizona

RESPONSE OF COMPLAINANT THE STATE OF ARIZONA TO MOTION OF STATE OF NEVADA FOR LEAVE TO INTERVENE.

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Defendants

UNITED STATES OF AMERICA, INTERVENER.

RESPONSE OF COMPLAINANT THE STATE OF ARIZONA TO MOTION OF STATE OF NEVADA FOR LEAVE TO INTERVENE.

COMES Now the Complainant above named and in response to the motion of the State of Nevada for leave to intervene says that it has no objection to the intervention in this case by the State of Nevada when and if the State of Nevada tenders or files a Petition of Intervention setting forth facts sufficient to constitute a claim or cause of action against the Plaintiff, the Defendants, or any of them, or the Intervener, the United States of America. Complainant further says that the Petition of Intervention tendered by the State of Nevada does not state facts sufficient to constitute a claim or cause of action against any of the present parties of this case because:

1.

None of the parties to this cause has questioned the allocation to the State of Nevada of the beneficial consumptive use of 300,000 acre feet of Colorado River System water as provided by the January 3, 1944 amendment of the March 30, 1942 contract between the United States of America and the State of Nevada.

2.

Section 5 of the Boulder Canyon Project Act (45 Stat. 1057) authorizes the Secretary of the Interior to contract for the storage of water in and delivery of water from the reservoir created by the dam authorized for construction by said Act and provides that:

"No person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract made as herein stated."

3.

Paragraph 4 of the January 3, 1944 contract between the United States of America and the State of Nevada provides:

"Subject to the availability thereof for use in Nevada under the provisions of the Colorado River Compact and the Boulder Canyon Project Act, the United States shall, from storage in Lake Mead, deliver to the State each year at a point or points to be selected by the State and approved by the Secretary, *so much water, including all other waters diverted for use within the State of Nevada from the Colorado River System, as may be necessary to supply the State a total quantity not to exceed Three Hundred Thousand (300,000) acre-feet each calendar year.* Said water may be used only within the State of Nevada, exclusively for irrigation, household, stock, municipal, mining, milling, industrial, and other like purposes, but shall not be used for the generation of electric power." (emphasis supplied)

4.

The State of Nevada in its Motion for Leave to Intervene and in its tendered Petition of Intervention fails to allege that (a) it has or can obtain any contract from the United States of America for any greater quantity of water than that referred to in the aforementioned January 3, 1944 contract, and (b) that there is physically available for use within the State of Nevada any quantity of Colorado River System water, other than that possibly available from Lake Mead Storage, in excess of the 300,000 acre feet referred to in said January 3, 1944 contract.

5.

The State of Nevada fails to allege that it has any fixed, definite plans for the use, within any reasonable time, of any greater quantity of Colorado River System water than that referred to in the said January 3, 1944 contract.

WHEREFORE, the Complainant asks that the Motion by the State of Nevada for leave to file a Petition of Intervention be denied.

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